IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 720 of 1999
To
FIRST APPEAL No. 725 of 1999
WITH
CIVIL APPLICATIONS No. 3539 to 3544 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 2 - Appellant(s)
Versus
MOMANA JAMAL RUDA - Defendant(s)

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Appearance :
MR UR BHATT, AGP for Appellant(s) : 1 - 3.
MR DC SEJPAL for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 30/11/2006

ORAL COMMON JUDGMENT :

This group of six appeals arises from common judgment delivered

by the 2nd Joint District Judge, Junagadh dated 30th April, 1998 in Land Reference Cases No. 20 of 1985 to 25 of 1985. They are heard together and now they are being disposed of by this common judgment.

2. These appeals have been filed by the original opponents of the aforesaid Reference Cases under section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act']. Present respondents are the original applicants.

2.1. The respondents were the owners of agricultural lands situated on the outskirts of village Amrapur [Gir], Taluka Malia-Hatina in District of Junagadh. These lands were required for the irrigation scheme known as 'Vrujmi Water-flow Scheme' in Amrapur village. Since it was a public purpose, necessary proceedings under the provisions of the Act were decided to be taken and in pursuance thereof, notification under section 4 of the Act was published on 1st October, 1981 and declaration under section 6 of the Act was published on 16th December, 1981. After complying with all the formalities under the Act, the Land Acquisition Officer, namely, appellant no. 3 herein made award under section 11 of the Act on 30th April, 1983. He determined the market value of the land in question at Rs.6,500/- for Baret land admeasuring one hectare and Rs.14,000/- for the irrigated land admeasuring one hectare and Rs.100/- for the waste land admeasuring one hectare. Over and above it, he also determined the compensation for trees, constructions standing on the land such as machine

room, water tank, etc. Since the respondents were totally dissatisfied with the rate at which the compensation was awarded to them by appellant no. 3, they preferred applications under section 18 of the Act to appellant no. 2 with a request to make reference to the District Court for enhancement of the compensation. The request ultimately culminated into aforesaid reference cases.

2.2. Before the Reference Court, grievance was made that the amount of compensation determined by appellant no. 3 was hopelessly inadequate and it was required to be enhanced. The respondents averred that the award did not reflect the correct and proper market value of the land in question. They contended that the lands were Bagayat land and the compensation ought to have been determined at the rate of Rs.16,000/- per Vigha i.e. Rs.1 lakh per hectare. It was the contention of the respondents that the lands had great potentiality and they could not have been deprived of these lands in such manner. According to them, they were entitled to receive compensation based on the market value at Rs.16,000/- per Vigha.

2.3. The appellant no. 1 contested the claim of the respondents by filing objections at Exh. 11 in Land Reference Case No. 20 of 1985. The appellant no. 1 contended that the reference applications were not bonafide and legal and the award made by the Special Land Acquisition Officer was just and

proper. According to appellant no. 1, the reference cases had no merit and they deserved to be dismissed.

2.4. At the hearing, the parties led evidence, oral as well as documentary. So far the appellants are concerned, the Special land Acquisition Officer placed reliance on several sale-deeds. He, however, did not step into the witness box. It appears that during pendency of the proceedings additional award was also passed by the Special Land Acquisition Officer. On conclusion of the proceedings, the Reference Court partly allowed the Reference Cases. The Reference Court held that all the lands were irrigated lands. The Learned Judge also came to the conclusion that the award made by the Special Land Acquisition Officer was on lower side and it was required to be enhanced. After considering all the aspects of the case, the Reference Court awarded different additional amounts to the respondents as per the details contained in Schedule – B of the judgment. The appellants have, therefore, come in appeal to challenge this common judgment.

3. I have heard Mr. Uday Bhatt, Ld. AGP for the appellants and Mr. DC Sejpal, learned advocate for the respondents. It is submitted by Mr. Bhatt that the rate of market value determined by the Reference Court is very high and it is required to be reduced. In other words, according to him, the award made by the Reference Court was exorbitant. He took me through the record

and proceedings of the case and in particular the evidence and submitted that the evidence did not warrant any enhancement in the award.

3.1. As against that, Mr. Sejpal has submitted that the award made by appellant no. 3 was very meager and it was required to be enhanced substantially and the same thing has been done by the Reference Court. According to him, there is no need for this Court to interfere with the same.

4. Jamalbhai Rudabhai, applicant of Land Reference Case No. 20 of 1985 has been examined at Exh. 19. He has stated that his land was irrigated land since there was a well from which water was drawn for irrigation purpose. He has also stated that there were several constructions in the land. He has also stated about the trees standing on the land. He has stated that he used to obtain different crops in three seasons. In monsoon, he used to have groundnut crop, whereas in winter, wheat crop and in summer pulses and Bajra crops. He has also stated about the income he derived from the agricultural produce. He further gave details about the amount spent for raising constructions as well as digging the well. According to him, the compensation awarded by the Special Land Acquisition Officer was inadequate and much on lower side. In the cross-examination the appellants have not been able to bring out any material of importance from their point of view. Similarly other applicants of the aforesaid Land Reference Cases have examined themselves, whose evidence has been

perused by me and since it is more or less on the same line, there is no need to refer to it in detail in this judgment. In-all 19 witnesses have been examined on behalf of the applicants including officials of the bank.

4.1. As against that, the appellants also examined witnesses. Ramnikbhai Odhavji, witness no. 1 on behalf of the appellants i.e. Opponents of the aforesaid reference cases has been examined and his evidence is at Exh. 84. He has given details about the physical verification made by him of the crop and other things standing on the lands under acquisition. According to him, by serving appropriate notices to respective land owners were asked to remain present on the day of verification. In the cross-examination he has admitted the details about the standing crop, trees and construction on the lands in question. At the same time, he has also denied certain suggestions that have been made.

5. The appellants have in-all examined 9 witnesses. Some of them are Government employees, whereas the others are the persons whose lands have already been sold and they have been examined with a view to have the sale-deeds on record. The appellants' witness, namely Prabhudas Jivrajbhai, whose evidence is recorded at Exh. 104, clearly supports the version given by the respondents. He has stated that in village Amrapur in the year 1981 the market price of the irrigated land was Rs.10,000/- per Vigha and that of Jirayat land was Rs.7,000/- per Vigha. He has also admitted the fact that prices that

have been stated by him were after deduction of salvage value of the property. He has also stated that every year there is increase of 10 to 15% in the prices of the land. In view of this evidence of Prabhudas Jivrajbhai as also the evidence of different applicants i.e present respondents, it appears that the market value determined by the Reference Court is just and proper. As per the Government witnesses themselves, the price of irrigated land of village Amrapur was around Rs.10,000/- per Vigha. The Reference Court also placed heavy reliance on this evidence and determined the market value at Rs.62,500/- per hectare. Since the acquisition was quite old, the Reference Court kept in view the relevant aspects and even thereby it came to the conclusion that the just price could be Rs.10,000/- per Vigha or Rs.62,500/- per hectare. I have also re-appreciated the evidence of these witnesses and in particular that of Prabhudas Jivrajbhai. There is no reason to disbelieve this evidence. It may also be noted here that the appellants have examined certain witnesses, namely, Kasam Jamal at Exh. 124, Bhana Naran at Exh. 126, Naran Anand at Exh. 128 and Ajabhai Devabhai at Exh. 134 with a view to bring the sale instances on record. These are the persons who have either sold or purchased the land. However, there is another set of documentary evidence also produced by the present respondents and the prices reflected therein of the land of Amrapur around the time of acquisition are also supported by the Government witnesses and in particular Prabhudas Jivrajbhai. Though the learned Judge has made observation that Prabhudas Jivrajbhai is rather helping the respondents instead of appellants i.e.

Government, I do not find anything on record to show that he deliberately did it. Merely because confirmation can be had about the prices which are reflected from the documents produced by the respondents, it cannot be said that he was out to help the respondents. On the contrary, it appears that his testimony stands corroborated by documentary evidence. So far the compensation awarded by the Reference Court with regard to structures, crops, trees, etc., standing on the land in question is concerned, it is not very seriously challenged by the appellants nor do I find any substance in the submissions that have been advanced on behalf of the appellants. In my opinion, the award made by the Reference Court is just and proper and it does not call for any interference by this Court. These appeals, therefore, do not have any merit and they are dismissed with no order as to costs.

In view of the aforesaid, Civil Applications for stay do not survive and they are disposed of accordingly.

Registry is directed to retransmit the R & P forthwith to the Reference Court.

[Akshay H Mehta, J.]

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